THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 14922 of 2001

Oral order:

The petitioner is a contract labour. He claims to have worked as Sub-Engineer for the respondents-AP TRANSCO through a contractor. He is seeking absorption/regularization of his services in the existing vacancies from the date of his initial appointment as contract labour with all consequential benefits.

The learned counsel for the petitioner submitted that the petitioner has been working as contract labour with the respondents-AP TRANSCO in a regular vacancy for the last more than 14 years, and had a legitimate expectation that his services would be absorbed/regularized, and hence, seeks a direction to the respondents to absorb/regularize his services.

The respondents-AP TRANSCO filed counter. The learned Standing Counsel for the respondents reiterating the counter averments submitted that the petitioner failed to prove that he worked as contract labour against a regular vacancy. He submitted that the case of the petitioner was considered against the 50% existing vacancies in terms of B.P. Ms. No. 36, dated 18.05.1997 and was rejected by the respondents vide orders dated 10.12.1999, and the same attained finality as the petitioner did not assail the same. He submitted that the petitioner being a contract employee, has no fundamental right to seek absorption of his services, and in support of this submission, he placed reliance on the judgment of the apex Court in **Secretary, State of Karnataka & Ors. v. Umadevi & Ors.**[1].

Heard the learned counsel for the petitioner and the learned

Standing Counsel for the respondents-AP TRANSCO.

In **Secretary, State of Karnataka & Ors. v. Umadevi & Ors.**, the apex court held that the employees working on daily wages have no right to claim that they should be treated on par with regularly recruited candidates and made permanent in employment. The petitioner, admittedly, is a contract labour, and though he claims that he worked for more than 14 years in a regular vacancy, the same is disputed by the respondents.

Be that as it may, the questions, namely whether the petitioner worked in a regular vacancy and whether he is entitled to absorption/regularization of his services, are disputed questions of fact, and this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot conveniently go into the same. In **Steel Authority of India Limited vs. National Water Front Workers**[2], the apex Court held that the determination of the questions as to whether the contract of employment of labour is a genuine one or a mere ruse/camouflage to evade the provisions of beneficial labour legislation, require inquiry into disputed questions of facts, which cannot conveniently be made by the High Courts in exercise of their jurisdiction under Article 226 of the Constitution, and the appropriate authority to go into those issues was the Industrial Tribunal/Court whose determination will be amenable to judicial review. Since the present writ petition also raises similar disputed questions of fact, having regard to the judgment of the apex Court in **Steel Authority of India Limited vs. National Water Front Workers**, the same is not maintainable, and the remedy of the petitioner is to approach the labour authorities under the Industrial Disputes Act, 1947 for the relief of absorption/regularization.

In the circumstances, following the aforesaid judgment and for

the reasons mentioned therein, I deem it appropriate to dispose of this writ petition with the following directions:

The petitioner is at liberty to approach the labour authorities under the Industrial Disputes Act, 1947 for the relief of absorption/regularization of his services with the respondents-AP TRANSCO.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Dated: 31st January, 2007.
KSR

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[1] 2006 (3) Supreme 415

[2] 2001 (6) ALD 1